

Message Text

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PAGE 01 RANGOO 03359 01 OF 03 141040Z
ACTION EA-12

INFO OCT-01 ISO-00 ONY-00 /013 W
-----009701 141051Z /12-R
P R 140900Z SEP 78
FM AMEMBASSY RANGOON
TO SECSTATE WASHDC PRIORITY 5913
INFO AMCONSUL MANDALAY BY POUCH

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E.O. 11652: N/A
TAGS: SHOM, BM
SUBJECT: 1978 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES: BURMA

REF: (A) STATE 228108, (B) STATE 215801

1. THE EMBASSY SUBMITS THE FOLLOWING REVISED DRAFT OF THE PROPOSED HUMAN RIGHTS REPORT FOR BURMA. BECAUSE OF EXTENSIVE CHANGES IN SOME SECTIONS, THE ENTIRE TEXT (EXCEPT WHERE NOTED) IS BEING TRANSMITTED FOR THE SAKE OF CLARITY AND SIMPLICITY. THE REVISIONS WERE LARGELY PROMPTED BY OUR PERCEPTION OF A NEED FOR UPDATING CERTAIN MATERIAL, CONFORMITY WITH REF B GUIDELINES, ACCURACY AND IMPROVING THE STYLE OF LAST YEAR'S TEXT.

2. THE TEXT FOLLOWS, NUMBERED IN THE SEQUENCE OF LAST YEAR'S REPORT. BEING TEXT:

ANNUAL HUMAN RIGHTS REPORT: BURMA

THE SOCIALIST REPUBLIC OF THE UNION OF BURMA IS GOVERNED UNDER A CONSTITUTION PROMULGATED IN 1974 AFTER APPROVAL BY NATIONAL REFERENDUM. UNDER THIS BASIC LAW, PRESIDENT NE WIN PRESIDES OVER A ONE-PARTY FORM OF PARLIAMENTARY GOVERNMENT AND SERVES AS CHAIRMAN OF THE SOLE LEGAL POLITICAL PARTY--
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THE BURMA SOCIALIST PROGRAMME PARTY (BSPP). THE GUIDING PHILOSOPHY OF THE BSPP REFLECTS A MIXTURE OF ELEMENTS OF MARXISM-LENINISM AND BURMESE NATIONALISM. ALTHOUGH THE GOVERNMENT IS DEMOCRATIC-CENTRALIST NEITHER THE PARTY NOR THE LEGISLATURE PLAYS A MAJOR ROLE IN DETERMINING NATIONAL POLICY. THE GOVERNMENT IS IN FACT HIGHLY AUTHORITARIAN AND ALL IMPORTANT POWERS ARE IN THE HANDS OF THE PRESIDENT.

I. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING
FREEDOM FROM:

A. TORTURE

THE UNITED STATES GOVERNMENT LACKS AUTHORITATIVE INFORMATION ON THE NUMBER AND TYPES OF PRISONERS IN BURMA'S JAILS OR ON THEIR TREATMENT. NEVERTHELESS, MANY PEOPLE HAVE BEEN IMPRISONED FOR OFFENSES WHICH COULD BE LABELLED AS POLITICAL. THERE IS ALSO UNSUBSTANTIATED INFORMATION THAT THE GOVERNMENT EMPLOYS PHYSICAL AND PSYCHOLOGICAL COERCION IN THE COURSE OF INTERROGATIONS IN CASES WHICH HAVE SERIOUS POLITICAL IMPLICATIONS OR INVOLVE NATIONAL SECURITY.

B. CRUEL, INHMAN OR DEGRADING TREATMENT OR PUNISHMENT

THERE IS NO GENERAL PATTERN OF INTENTIONAL CRUEL, INHMAN OR DEGRADING TREATMENT OR PUNISHMENT EMPLOYED BY THE BURMESE GOVERNMENT. THE FACT THAT CONDITIONS IN BURMESE JAILS ARE GENERALLY VERY POOR AND OVERCROWDED IS PRIMARILY A CONSEQUENCE OF THE OVERALL LOW STANDARD OF LIVING IN THE COUNTRY.

C. ARBITRARY ARREST OR IMPRISONMENT

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WIDESPREAD ARRESTS ON POLITICAL CHARGES OCCURRED UNDER THE REVOLUTIONARY COUNCIL PRIOR TO 1974. MOST, IF NOT ALL, OF THOSE ARRESTED WERE SUBSEQUENTLY RELEASED. IN INSTANCES OF WIDESPREAD PUBLIC DISTURBANCES IN 1974 AND 75, MASS ARRESTS WERE MADE OF STUDENTS AND WORKERS. THERE WERE ALSO A LARGE NUMBER OF ARRESTS IN 1976 AND 1977 AFTER ALLGED PLOTS AGAINST THE GOVERNMENT WERE UNCOVERED, AND IN THE FALL OF 1977 IN THE WAKE OF A BURMA SOCIALIST PROGRAMME PARTY INTERNAL REALIGNMENT. THE 1974 CONSTITUTION PROHIBITS DETENTION WITHOUT CHARGE BEYOND 24 HOURS, BUT A 1975 ANTI-SUBVERSION LAW IN EFFECT SUSPENDS THIS PROVISION. IN PRACTICE, MANY DETAINEES ARE LATER TRIED ON CRIMINAL CHARGES; OTHER ARE HELD OR RELEASED WITHOUT TRIAL. SOME OF THOSE CONVICTED HAVE BEEN SENTENCED TO LONG PRISON TERMS. THIS YEAR APPROXIMATELY 200 STUDENTS WERE RELEASED PRIOR TO THE COMPLETION OF THEIR SENTENCES, BUT OTHER STILL REMAIN IN JAIL. AMNESTY INTERNATIONAL'S 1977 REPORT STATES THAT THERE ARE "AT LEAST SEVERAL THOUSAND POLITICAL PRISONERS" IN BURMA. WE ARE UNABLE TO VERIFY THAT FIGURE, BUT WE THINK THERE ARE MANY POLITICAL PRISONERS IN BURMAA.

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ACTION EA-12

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D. DENIAL OF FAIR PUBLIC TRIAL

THE 1974 CONSTITUTION PROVIDES BURMESE CITIZENS ACCESS TO THE COURTS AND PUBLIC TRIALS. THE BURDEN OF PROOF IS UPON THE PROSECUTION AND THE ACCUSED HAS THE RIGHT TO AN ATTORNEY. JUSTICE IS ADMINISTERED BY A SYSTEM OF PEOPLE'S COURTS. THE JUDGES ARE LAY PERSONS, UNTRAINED IN THE LAW, WHO ARE SELECTED BY THE PARTY. THEY ARE ADVISED BY PROFESSIONAL LEGAL OFFICERS, USUALLY FORMER JUDGES UNDER THE BRITISH-INSTALLED LEGAL SYSTEM, WHOSE ADVICE MAY OR MAY NOT BE ACCEPTED. IN ADDITION TO EXISTING LAW, TRADITIONAL BURMESE NOTIONS OF COMMUNITY HARMONY AND FAIR PLAY AND SOCIALIST CONCEPTS ARE AMONG THE FACTORS WHICH AFFECT COURT DECISIONS. IN A FEW CASES WITH NATIONAL POLITICAL OVERTONES, HOWEVER, JUDGEMENTS AND SENTENCES APPARENTLY HAVE BEEN DIRECTED BY THE GOVERNMENT.

E. INVASION OF THE HOME

ALTHOUGH THE 1974 CONSTITUTION GUARANTEES THE PRIVACY AND SECURITY OF THE HOME, THIS RIGHT IS OFTEN ABRIDGED BY THE AUTHORITIES, ESPECIALLY DURING PUBLIC DISTURBANCES, IN SITUATIONS INVOLVING INSURGENT ACTIVITY, AND OTHER INSTANCES OF SUSPECTED THREATS TO NATIONAL SECURITY (WHICH IS BROADLY DEFINED).

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II. GOVERNMENT POLICIES RELATING TO THE FULFILLMENT OF

SUCH VITAL HUMAN NEEDS AS FOOD, SHELTER, HEALTH CARE
EDUCATION

BURMA'S ANNUAL PER CAPITA GNP OF ABOUT \$130 PLACES IT
AMONG THE WORLD'S LEAST DEVELOPED COUNTRIES IN ECONOMIC
TERMS.

BURMA'S AVERAGE GROWTH RATE OVER THE PAST DECADE HAS
BEEN 3 PERCENT, BARELY EXCEEDING POPULATION GROWTH. MOST
INDEPENDENT LOCAL AND FOREIGN OBSERVERS ATTRIBUTE THE
LOW RATE OF GROWTH OF THIS POTENTIALLY PROSPEROUS NATION
TO POOR GOVERNMENT MANAGEMENT OF THE SOCIALIST ECONOMIC
STRUCTURE, LACK OF CAPITAL INVESTMENT AND THE ABSENCE OF
INDIVIDUAL INCENTIVE. THE PRESENT GOVERNMENT IS UNQUESTIONABLY
COMMITTED TO SOCIALIST CNCEPTS OF SOCIAL AND ECONOMIC
JUSTICE. SINCE IT TOOK POWER IN 1962, THE GOVERNMENT HAS
BROUGHT ABOUT SUBSTANTIAL ECONOMIC LEVELLING, AND HAS MADE
REAL EFFORTS, HOWEVER INEFFECTIVE, TO PROVIDE FOR THE BASIC
NEEDS OF ITS CITIZENS.

IN BURMA, THE MILITARY AND POLITICA ELITE GENERALLY
ENJOY A HIGHER STANDARD OF LIVING THAN MOST ORDINARY
PEOPLE, ALTHOUGH BY INTERNATIONAL STANDARDS EVEN THE ELITE
LIVE VERY MODESTLY. THE IMPACT OF CORRUPTION IS NOT
EXTENSIVE. A SIGNIFICANT PORTION OF THE POPULATION IS
INVOLVED IN OR TACITLY SUPPORTS A SHADOW BLACK MARKET
ECONOMY. HOWEVER, OFFICIALDOM AS A WHOLE PROBABLY BENEFITS
MORE FROM PRIVILEGED ACCESS TO HOUSING, FOOD SUPPLIES,
CONSUMER GOODS, TRANSPORTATION AND HEALTH CARE FACILITIES
THAN FROM CORRUPTION.

IIIM RESPECT FOR CIVIL AND POLITICAL LIBERTIES, INCLUDING:
A. FREEDOM OF THOUGHT, SPEECH, PRESS, RELIGION AND ASSEMBLY
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FREEDOM OF EXPRESSION IS LIMITED IN BURMA. PUBLIC
CRITICISM OF THE REGIME IS NOT TOLERATED. (PRIVATE
CRITICISM DOES OCCUR BUT ONLY ON A GUARDED BASIS.) PUBLIC
MEDIA ARE GOVERNMENT-OWNED AND CONTROLLED, AND THE LIMITED
FOREIGN PUBLICATIONS PERMITTED TO BE IMPORTED ARE OCCASIONALLY
CENSORED. FOREIGN RADIO BROADCASTS ARE WIDELY AND
FREELY AVAILABLE. FREEDOM OF ASSEMBLY, HOWEVER, IS
RESTRICTED. INDEPENDENT, SECULAR MASS ORGANIZATIONS
(INCLUDING LABOR UNIONS), ARE BANNED. INSTEAD A NETWORK OF
PARTY-SPONSORED WORKERS' AND PEASANTS' ORGANIZATIONS, YOUGH
LEAGUES, AND SIMILAR GROUPS HAVE BEEN FORMED. THESE ORGANI-
ZATIONS PROVIDE SOME OPPORTUNITY FOR EXPRESSION OF THE
VIEWS OF ORDINARY CITIZENS, BUT LARGELY SERVE AS A MEANS
OF COMMUNICATING NATIONAL POLCIES, IMPLEMENTING GOVERN-
MENT PROGRAMS AND OTHERWISE ENLISTING POPULAR SUPPORT

FOR THE GOVERNMENT.

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INFO OCT-01 ISO-00 ONY-00 /013 W
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TO SECSTATE WASHDC PRIORITY 5915
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FREEDOM OF RELIGION IS A BASIC TENANT OF THE 1974
CONSTITUTION AND TO OUR KNOWLEDGE IS WIDELY OBSERVED.
THE PEOPLE OF BURMA REPRESENT A NUMBER OF DIFFERENT ETHNIC
AND RELIGIOUS GROUPS. WITHIN THE AREAS CONTROLLED BY
THE CENTRAL GOVERNMENT, THEY LIVE TOGETHER IN RELATIVE
HARMONY AND ENJOY MORE OR LESS EQUAL TREATMENT. MINORITY
GROUPS ARE REPRESENTED IN GOVERNMENT BODIES AND SERVICES,
INCLUDING THE HIGHEST ORGANS OF GOVERNMENT, ALTHOUGH ETHNIC
BURMANS RETAIN A MONOPOLY ON ACTUAL POLITICAL POWER. OF
THE MINORITIES INHABITING THE MOUNTAINOUS REGIONS SURROUNDING
BURMA, THE SHANS, KARENS AND KACHINS ARE THE MOST
PROMINENT GROUPINGS. EACH GROUP HAS LONG SUPPORTED ARMED
INSURRECTIONS OF VARYING SIZE AND INTENSITY AGAINST THE
CENTRAL GOVERNMENT CONTESTING FOR POLITICAL CONTROL OF
THEIR RESPECTIVE HOMELANDS. TO VARYING DEGREES, HISTORICAL
SEPARATION, ECONOMIC ASPIRATIONS, PERSONAL AMBITIONS OF
SOME INSURGENT LEADERS, AND ETHNIC AND RELIGIOUS DIFFERENCES
UNDERLIE THESE SEPARATIST MOVEMENTS. PAST GOVERNMENT
ATTEMPTS TO NEGOTIATE WITH THESE MINORITIES FAILED TO
PRODUCE A SETTLEMENT. FOR MANY YEARS THE GOVERNMENT HAS
BEEN TRYING, UNSUCCESSFULLY, TO MAINTAIN CONTROL OVER THESE
TERRITORIES BY MILITARY MEANS.

(PROPOSED TEXT IN REF A ON MUSLIMS AND STATUS OF
WOMEN IS SATISFACTORY.)

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B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL
AND EMIGRATION

THE 1974 CONSTITUTION GUARANTEES THE RIGHT OF CITIZENS TO LIVE ANYWHERE WITHIN BURMA. EXCEPTIONS APPLY TO MILITARY AREAS OR AREAS OF INSURGENT ACTIVITY (AT LEAST HALF OF THE COUNTRY GEOGRAPHICALLY). NON-CITIZEN RESIDENTS OF BURMA (PRIMARILY INDIANS OR CHINESE, MANY OF WHOM WERE BORN IN BURMA) ARE ALSO SUBJECT TO TRAVEL RESTRICTIONS.

IN PRACTICE, FOREIGN TRAVEL IS DENIED TO ALL BUT A FEW BURMESE, MOSTLY MILITARY AND GOVERNMENT OFFICIALS OR PARTICIPANTS IN OFFICIALLY-SPONSORED OR SANCTIONED EXCHANGE PROGRAMS. ONE OF THE GOVERNMENT'S MAIN REASONS FOR RESTRICTING FOREIGN TRAVEL IS TO CONSERVE SCARCE FOREIGN EXCHANGE. EMIGRATION IS PERMITTED, ALTHOUGH BUREAUCRATIC AND LEGAL REQUIREMENTS MAKE IT A LENGTHY AND EXPENSIVE PROCESS FOR MOST BURMESE. THE PROSPECTIVE IMIGRANT MUST RESIGN ANY GOVERNMENT JOB, REPAY THE GOVERNMENT FOR ANY HIGHER EDUCATION, AND PAY ADVANCE INCOME TAX ON ANTICIPATED EARNINGS ABROAD. EMIGRES WHO HAVE ADOPTED FOREIGN CITIZENSHIP WERE UNTIL RECENTLY NOT PERMITTED TO RETURN TO BURMA FOR EVEN A TEMPORARY VISIT. THIS RESTRICTION HAS BEEN RELAXED SINCE 1976.

C. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

THE SOCIALIST REPUBLIC OF THE UNION OF BURMA IS GOVERNED UNDER A CONSTITUTION PROMULGATED IN 1974 AFTER APPROVAL BY A NATIONAL REFERENDUM. UNDER THIS STATE SOCIALIST-STYLED BASIC LAW, PRESIDENT NE WIN PRESIDES OVER A ONE-PARTY FORM OF PARLIAMENTARY GOVERNMENT. THE LIMITED OFFICIAL USE

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PRESIDENT IS ALSO CHAIRMAN OF THE SOLE LEGAL POLITICAL PARTY--THE BURMA SOCIALIST PROGRAMME PARTY (BSPP)--WHICH FUNCTIONS ON LENINIST DEMOCRATIC CENTRALIST LINES. ALTHOUGH THERE IS UNIVERSAL SUFFRAGE, THE ELECTORATE HAS LIMITED CHOICE IN NATIONAL AND LOCAL ELECTIONS, SINCE THERE IS ONLY ONE SLATE OF CANDIDATES FOR PUBLIC OFFICE, PRE-DETERMINED BY THE PARTY. (THE PARTY OFTEN CONSIDERS MORE THAN ONE CANDIDATE FOR A PARTICULAR POSITION DURING THE PERIOD OF PREPARATION OF THE SLATE.) A CANDIDATE MUST RECEIVE AT LEAST 50.1 PERCENT OF THE VOTES CAST IN ORDER TO BE DECLARED ELECTED. THE ELECTION LISTS DO INCLUDE, HOWEVER, SOME NON-BSPP CANDIDATES--A FEW OF WHOM ARE ELECTED TO OFFICE. INTERNAL CRITICISM OF PARTY

POSITIONS AND PERFORMANCE IS DISCOURAGED.

IV. GOVERNMENT ATTITUDE AND RECORD REGARDING INTERATIONAL
AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS
OF HUMAN RIGHTS

WE ARE NOT AWARE OF ANY INDEPENDENT, OUTSIDE
INVESTIGATIONS OF HUMAN RIGHTS CONDUCTED WITHIN BURMA. NOR
DO WE KNOW ANY REQUESTS FOR SUCH INVESTIGATIONS BY
INTERNATIONALLY-RECOGNIZED ORGANIZATIONS. THE BURMESE
GOVERNMENT ALMOST CERTAINLY WOULD NOT BE WILLING TO PERMIT
SUCH INVESTIGATIONS AND WOULD CONSIDER THEM UNWARRANTED
INFRINGEMENT UPON BURMESE SOVEREIGNTY.

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, HUMAN RIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 14 sep 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978RANGOO03359
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780373-0855
Format: TEL
From: RANGOON
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780966/aaaaccmi.tel
Line Count: 346
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a20d2250-c288-dd11-92da-001cc4696bcc
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: ONLY
Reference: 78 STATE 228108, 78 STATE 215801
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 28 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1432472
Secure: OPEN
Status: NATIVE
Subject: 1978 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES: BURMA
TAGS: SHUM, BM
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/a20d2250-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014